

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

ORIGINAL

D&F  
C/M

SANTO LANZAFAME in his fiduciary capacity as a Trustee for the POINTERS, CLEANERS & CAULKERS WELFARE, PENSION & ANNUITY FUNDS, and as President of the BRICKLAYERS AND ALLIED CRAFTSWORKERS LOCAL UNION NO. 1, B.A.C.I.U., AFL-CIO, and the TRUSTEES of the BRICKLAYERS AND TROWEL TRADES INTERNATIONAL PENSION FUND and the INTERNATIONAL MASONRY INSTITUTE,

Plaintiffs,  
-against-

A.B.M. CONTRACTING SERVICES CORPORATION, HASHIM M. CHOURAY, JOHN and/or JANE DOE FIDUCIARY, PERFETTO ENTERPRISES CO., INC., and U.S. SPECIALTY INSURANCE COMPANY,

Defendants.

FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

★ SEP 21 2010 ★

BROOKLYN OFFICE

**MEMORANDUM AND ORDER**  
Case No. 09-CV-4710 (FB) (VVP)

*Appearances:*

*For the Plaintiffs:*

CAROL G. DELL, ESQ.  
Holm & O'Hara, LLP  
3 West 35th Street, 9th Floor  
New York, NY 10001-2204

**BLOCK, Senior District Judge:**

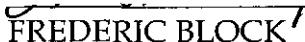
On September 7, 2010, Magistrate Judge Pohorelsky issued a Report and Recommendation ("R&R") recommending that the Court award Plaintiffs: (1) accrued

interest of \$3,412.81 on unpaid ERISA contributions; (2) accrued interest of \$291.22 on unpaid dues; (3) liquidated damages of \$6,576.18; and (4) attorneys' fees and costs in the amount of \$9,770.13. *See* R&R at 10. The R&R also stated that failure to object within fourteen days of being served with a copy of the R&R would preclude appellate review. *See id* at 11. Plaintiff's attorney mailed a copy of the R&R to defendant on September 13, 2010; no objections have been filed.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) ("Where parties receive clear notice of the consequences, failure timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision."). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error, *see Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. Accordingly, the Court adopts the R&R without *de novo* review and directs the Clerk to enter judgment in accordance with the R&R.

**SO ORDERED.**

s/Frederic Block

FREDERIC BLOCK

Senior United States District Judge

Brooklyn, New York  
September 28, 2010